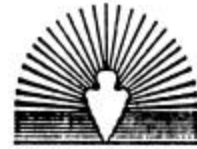




## LAND USE SERVICES DEPARTMENT STAFF REPORT



HEARING DATE: July 25, 2002

AGENDA ITEM NO: 3

### Project Description

Applicant: Land Use Services Department  
Proposal: An ordinance to amend Title 8 of the San Bernardino County Code relative to accessory wind energy systems.  
Index: CW1-849N  
CATS: L612  
Community: Countywide  
Location: Countywide  
Staff: Patrick Egle

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### **BACKGROUND:**

The recent shortage of a reliable electricity supply in California has caused the State legislature to take action relative to alternative sources of power. On October 7, 2001, the State adopted AB1207 which pertains to small wind energy systems, commonly referred to as "windmills" or "wind turbines." This bill became effective on July 1, 2002 and provides development standards for these systems for "non-urbanized" areas. It also allows any local agency to adopt an ordinance that establishes procedures and development standards for the installation of these systems within its jurisdiction. Such ordinance shall not be more restrictive than State law relative to notice, tower height, setbacks, turbine approval and engineering analysis.

Along with this new law, the State has a "buy-down" incentive program that enables property owners to receive up to a 50% rebate on the installation of these systems. All of this has resulted in an increased interest in these systems by the general public who merely want to reduce their energy costs.

The new State law has prompted the County to reevaluate its provisions for these systems. Staff proposes to amend the County Development Code to provide more comprehensive regulations. The proposed ordinance removes the provisions contained in the Chapter 4 of Division 7 of the Development Code (Height Regulations) and establishes a new section to Chapter 5 of Division 4 (Accessory Uses) dealing exclusively with accessory wind turbines. This new section specifies that these systems may be used as accessory uses within any land use district except Single Residential (RS) and Multiple Residential (RM) in urbanized areas. It is proposed to streamline the approval process and lessen the inconvenience to consumers by continuing to allow installation with a building permit rather than requiring a

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Action taken by the Planning Commission on this item may be appealed to the Board.

Yes ☐ No ☒

Note: Recommendations to the Board of Supervisors are not appealable.

Revised 12/15/95

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Conditional Use Permit (CUP) as allowed by State law. This will minimize the time and cost that is required to obtain approval to install these systems.

The following is a comparison between the new State Law, the current County provisions and the proposed amendment to the Code:

Issue	State Law	Current County Provisions	Proposed Amendment
Review	Allows up to CUP	Building permit	Building permit
Notification of neighbors	Allows up to 300' radius	Not required	Not required
Tower Heights	1 to <5 acres: 65 ft. 5 acres and above: 80 ft.	Urbanized: 52.5 ft. Non-urbanized: 65 ft.	Urbanized: Not permitted Non-urbanized (ILs 3-5) RS/RM: 65/65/80* RL: 65/65/80* RL-5, AG, RC: 80/80/120* All others districts: 65/65/80* (or max. height of the LUD if higher) *Valley/Mtn/Desert
Density	Not addressed	Not addressed	1 per 10 acres Maximum of 3
Setbacks	100% of tower height	125% of tower height	100% of tower height
Aesthetics	Not addressed	Not addressed	Earthtone colors to blend with background
Lighting	Not addressed	Not addressed	Not permitted
Noise	60dBa	Day: Average 55 dBa Night: Average 45 dBa	Day: Average 55 dBa Night: Average 45 dBa
Scenic Corridor	Not addressed	Not addressed	Not permitted
Structure Removal	Not addressed	Not addressed	Remove if not operational for one year or more under normal occupancy of the residence

**Structure Height:** Staff proposes an increased tower height in the Desert Area because increased tower height enhances system efficiency up to 66%. Attached to this report is a table outlining the relationship between tower height and system efficiency. Also, since these structures are accessory uses, the primary use on the parcel may cause a disturbance to the wind flow impacting the efficiency of the unit. The increased height will minimize the negative effects of this wind flow disturbance. Staff is recommending higher tower heights in the Desert Region because the Desert Region is rural in character and has generally larger parcel sizes than are found in the Valley and Mountain Regions. These larger parcels are able to accommodate increased tower heights and provide the buffering necessary to protect the character of rural neighborhoods.

The remainder of the proposed County ordinance follows the state law and includes the following:

- **System Certification:** The system's turbine must be approved by the California Energy Commission or certified by a national program recognized and approved by the Energy Commission.
- **Structural Requirements:** The tower shall be designed to meet the wind, seismic and soil requirements prescribed by the Uniform Building Code.
- **Siting Limitations:**
  - A wind turbine shall not be allowed where otherwise prohibited by any of the following:
    - The Alquist-Priolo Earthquake Fault Zoning Act.
    - The terms of any easement.
    - The listing of the proposed site in the National Register of Historic Places or the California Register of Historical Resources
  - A wind turbine shall not be sited on land within a restricted military airspace without first coordinating with the governing authority of that airspace.
- **Notification:** In the event a small wind energy system is proposed to be sited in an agricultural area that may have pest control aircraft operating at low altitudes, the applicant shall take reasonable steps to notify the operators.

**FINDINGS:**

1. An initial study was prepared for the proposed amendment, and it concludes that the proposed ordinance would have a less than significant impact on the environment with mitigation measures included within the ordinance and that a Negative Declaration should be prepared.
2. The proposed Development Code Amendments are consistent with the goals and policies of the General Plan.

**RECOMMENDATION:**

Staff recommends that the Planning Commission make the following recommendations to the Board of Supervisors:

- A. ADOPT the proposed Development Code Amendments by ordinance.
- B. ADOPT the findings as contained in the staff report;
- C. ADOPT a Negative Declaration.
- D. FILE a Notice of Determination.

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ATTACHMENTS:

1. Proposed Development Code Amendment Ordinance
2. Initial Study
3. Predicted Monthly Energy Production
4. Disturbed Airflow Diagram